

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

)
FERNANDO GUERRA,)
)
)
Plaintiff,)
) C.A. No. 15-445 S PAS
v.)
)
RHODE ISLAND DEPARTMENT)
OF CORRECTIONS,)
)
Defendant.)
)

ORDER

WILLIAM E. SMITH, Chief Judge.

On July 6, 2016, United States Magistrate Judge Patricia A. Sullivan issued a Report and Recommendation ("R&R") in this pro se civil rights case. (ECF No. 16.) Magistrate Judge Sullivan recommended that this Court grant the Rhode Island Department of Corrections' ("RIDOC") Motion for Sanctions (ECF No. 13) and dismiss this action because of Plaintiff's continued failure to respond to discovery requests and abide by numerous court orders. Plaintiff did not object to the R&R. The RIDOC objected to Magistrate Judge Sullivan's recommendation that the case be dismissed without prejudice. (ECF No. 17.) According to the RIDOC, Plaintiff's failure to prosecute his case, even after receiving multiple warnings that failing to do so would result in dismissal, warrants dismissal with prejudice.

While the RIDOC's objection is well taken, the Court nonetheless agrees on balance with Magistrate Judge Sullivan's recommendation; dismissal is a harsh sanction in and of itself, and in deference to Plaintiff's pro se status, dismissal without prejudice is sanction enough in this instance. Consequently, the Court OVERRULES the objection and ACCEPTS the R&R pursuant to 28 U.S.C. § 636(b)(1). Plaintiff's Complaint is DISMISSED WITHOUT PREJUDICE.

IT IS SO ORDERED.



William E. Smith
Chief Judge
Date: September 23, 2016